



TaxNewsFlash

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Proposed regulations: Reinstated Superfund chemical tax and Superfund imported substance tax

The U.S. Treasury Department and IRS today released for publication in the Federal Register proposed regulations (REG-105954-22) providing guidance on the application, effective July 1, 2022, of the reinstated excise taxes imposed on certain chemicals and certain imported substances (known as the Superfund chemical taxes).

The [proposed regulations](#) [PDF 336 KB] (26 pages as published in the Federal Register on March 29, 2023) are proposed to apply to sales or uses in calendar quarters beginning on or after the date the regulations are finalized. Taxpayers and their related parties, within the meaning of sections 267(b) and 707(b)(1), may rely on the provisions of the proposed regulations prior to that date, provided that they follow the proposed regulations in their entirety (as applicable) and in a consistent manner.

Comments and requests for a public hearing are due by May 30, 2023.

KPMG observation

The proposed rules provide:

- Definitions for the terms “manufacturer,” “importer,” “use,” and “sale”
- Clarification that isomers of a taxable chemical are treated as the taxable chemical
- Clarification of the treatment of chemical mixtures, including alloys, solutions, suspensions, and colloids
- Clarification that recycling can be a form of manufacturing, and that recyclers are not exempt from the definition of the term “manufacturer”
- Model certificates for certain tax-free sales including certain chemicals used to produce animal feed, fertilizer, and motor fuel, and clarified that certificates must be refreshed at least annually
- Rules for exporters to follow to claim credit or refund for exported chemicals or substances

For more information, contact a tax professional in the KPMG Excise Tax Practice group:

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